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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,410	02/12/2004	Otto G. Berkes	224012	5765

41505 7590 06/14/2006

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

EXAMINER	
CONNOLLY, MARK A	

ART UNIT	PAPER NUMBER
2115	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,410	BERKES ET AL.	
	Examiner	Art Unit	
	Mark Connolly	2115	

-- Th MAILING DATE of this communicati n appears on the cover sh et with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,10-30,32-38 and 42* is/are rejected.

7)☒ Claim(s) *7-9,31 and 39-41* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/25, 12/21, 2/12*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-42 have been presented for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 1-24 and 34-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In particular, paragraph 0028 in the specification defines a "computer readable media" as comprising computer storage media and communication media such as carrier waves. The invention must be tangible and for examination purposes the "computer readable media" has been interpreted as "computer storage media."

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 11 recites the limitation "the up timer" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes "the up timer" has been interpreted as "the first timer" since the first timer corresponds to an "up" alarm signal.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4, 10, 12, 15-20, 25-28, 30, 34-38 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Padawer et al[1] [Padawer] US PUB 2002/0174371 A1.

8. Referring to claim 1, Padawer teaches the invention comprising:

a. configuring a first timer to generate an up alarm signal [abstract].

b. reconfiguring the power-constrained personal computer from a first of a set of relatively high functionality and high power configurations to one of a set of relatively low functionality and low power configurations [abstract and ¶'s 0004 and 0025-0026].

c. in response to the up alarm signal, reconfiguring the power-constrained personal computer from said one of the set of relatively low functionality and low power configurations to a second of the set of relatively high functionality and high power configurations[abstract and ¶'s 0025-0026].

9. Referring to claim 2, Padawer teaches the first and second of the set of relatively high functionality and high power configurations are the same [¶'s 0025-0026].

10. Referring to claim 3, Padawer teaches configuring a second timer to generate a down alarm signal and reconfiguring the power-constrained personal computer from the first set of the set of relatively high functionality and high power configurations to said one of the set of relatively low functionality and low power configurations in response to the down alarm signal [180 figs 1-2, abstract and ¶'s 0025-0026].

11. Referring to claim 4, Padawer teaches the first and second timers being the same timer [180 figs. 1-2 and ¶'s 0025-0026].

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[1] As cited by applicant

12. Referring to claim 10, it is interpreted that an active mode provides in increase in performance over an idle mode and an idle mode provides an increase in performance over a sleep mode.

13. Referring to claim 12, Padawer teaches scheduling transitions between sleep and wake up conditions [abstract and ¶ 0004].

14. Referring to claim 15, this is rejected on the same basis as set forth hereinabove. Padawer teaches that the program for transitioning between a high power and low power configuration can either be enabled and used with the system or disabled [¶'s 0003 and 0041]. Enabling the power management program is interpreted as transitioning to an intermittent computing state.

15. Referring to claims 16 and 17, Padawer teaches setting times where the device is powered up and powered down [¶ 0003].

16. Referring to claim 18, Padawer teaches transitioning back and forth between an idle state and awaken mode state [fig. 3 and ¶ 0026].

17. Referring to claim 19, Padawer teaches cycling while under control of an Auto On/ Auto Off program wherein the cycle rate is dictated by timer values [¶ 0004 and 0020].

18. Referring to claim 20, Padawer explicitly teaches the system comprises a user interface which can display and allow a user to adjust the time at which the device should spend in a particular computing state [¶'s 0021 and 0024]. It is interpreted that the computing states, along with their respective parameters (i.e. timer values), are listed in some order so that a user can easily view and edit the parameters.

19. Referring to claims 25-27, these are rejected on the same basis as set forth hereinabove.

20. Referring to claim 28, Padawer teaches a user interface which can display information pertaining to the power cycling [¶ 0024].

21. Referring to claim 30, Padawer teaches running the Auto On/Auto Off program or disabling it [¶ 0041]. Furthermore, Padawer teaches configuring the intermittent computing schedule [¶ 0021].

22. Referring to claims 34-38, these are rejected on the same basis as set forth hereinabove. In particular, Padawer teaches specifying times at which a system will adjust and cycle between power states thus inherently defining a ratio [¶ 0021 and 0026].

23. Refering to claim 42, this is rejected on the same basis as set forth hereinabove. Padawer teaches specifying a time for which the device should remain in a particular power mode [abstract and ¶ 0004].

24. Claims 1 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Chou et al [Chou] US Pat No 6065123.

25. Referring to claim 1, Chou teaches the invention comprising:

d. configuring a first timer to generate an up alarm signal [abstract].

e. reconfiguring the power-constrained personal computer from a first of a set of relatively high functionality and high power configurations to one of a set of relatively low functionality and low power configurations [abstract].

f. in response to the up alarm signal, reconfiguring the power-constrained personal computer from said one of the set of relatively low functionality and low power

configurations to a second of the set of relatively high functionality and high power configurations[abstract and col. 7 lines 32-42].

26. Referring to claim 13, Chou teaches the system comprising a hard drive [fig. 2 and col. 9 lines 10-11].

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

28. Claims 5-6, 11, 14-15, 21-25, 29 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou as applied to claims 1 and 13 above, and further in view of Barrus US Pat No 5958058.

29. Referring to claims 5 and 6, Chou teaches transitioning a power-constrained personal computer to an intermittent computing system state (active state) in order to execute pre-scheduled applications [fig. 2, abstract and col. 7 lines 32-42]. Although Chou teaches transitioning to an intermittent computing system state, it is not explicitly taught that configuration states are associated with at least one hardware power set. Barrus teaches adjusting performance parameters of hardware components of the system corresponding to particular application to be executed [col. 3 lines 13-16 and col. 5 lines 35-44]. It would have been obvious to one of ordinary skill in the art to modify the Chou system to include the teachings of Barrus because it would provide a means to adjust performance of the system "to optimize battery life" yet still provide sufficient execution resources to execute the applications

[col. 3 lines 23-28]. It is obvious that the Chou-Barrus system would alter performance parameters, thereby altering power consumption, in response to executing scheduled applications.

30. Referring to claim 11, Chou teaches that the timer is set in accordance with a wake up time defined by an actual time for a scheduled task to occur [fig. 2 and col. 7 lines 16-42]. Because the timer corresponds to real time, it is obvious that the timer would be clocked by a real time clock.

31. Referring to claim 14, although not explicitly taught, ISA compatible system buses are well known in the art and further well known to be incorporated into today's computing devices. Since Chou explicitly teaches a computing device, it is obvious that the system would further comprise an ISA compatible bus in order to maintain compatibility with older components which require an ISA expansion slot.

32. Referring to claim 15, Chou teaches transitioning a power-constrained personal computer to an intermittent computing system state (active state) in order to execute pre-scheduled applications [fig. 2, abstract and col. 7 lines 32-42]. Although it is taught to transition to the intermittent state, it is not explicitly taught that while in the intermittent state, the system transitions between sub-states according to a schedule wherein each sub-state alters the amount of power consumption. Barrus teaches adjusting performance parameters of the system corresponding to particular application to be executed [col. 3 lines 13-16]. It would have been obvious to one of ordinary skill in the art to modify the Chou system to include the teachings of Barrus because it would provide a means to adjust performance of the system "to optimize battery life" yet still provide sufficient execution resources to execute the applications [col. 3

lines 23-28]. It is obvious that the Chou-Barrus system would alter performance parameters, thereby altering power consumption, in response to executing scheduled applications.

33. Referring to claims 21 and 22, the intermittent computing system states in the Chou-Barrus system which adjust performance parameters are interpreted as comprising high and low power states which are also interpreted as working states. Chou further teaches the system comprising suspend and standby power modes [col. 4 lines 44-61].

34. Referring to claim 23, Barrus teaches adjusting power to various hardware components depending on the required performance level [col. 5 lines 35-44].

35. Referring to claim 24, Chou teaches a timer for generating an alarm to transition between states [abstract].

36. Referring to claims 25, 29 and 32-33, these are rejected on the same basis as set forth hereinabove.

Allowable Subject Matter

37. Claims 7-9, 31 and 39-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Connolly whose telephone number is (571) 272-3666. The examiner can normally be reached on M-F 8AM-5PM (except every first Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (571) 272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Connolly
Examiner
Art Unit 2115

mc
June 8, 2006

CHUN CAO
PRIMARY EXAMINER